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In re Application of  
ANDREWS, Clarence, Webster, et al.  
U.S. Application No.: 10/070,084  
PCT No.: PCT/EP00/08487  
International Filing Date: 31 August 2000  
Priority Date: 04 September 1999  
Attorney's Docket No.: PU3517USW  
For: BENZOPHENONONES AS INHIBITORS OF  
REVERSE TRANSCRIPTASE

DECISION ON PETITION

This decision is issued in response to applicants' "Response To Missing Requirements Under 35 U.S.C. 371 In The DO/EO/US" filed 08 August 2002, which has been treated as a petition under 37 CFR 1.181 to confirm the filing of an executed declaration and surcharge payment on 07 March 2002. No petition fee is required.

**BACKGROUND**

On 31 August 2000, applicants filed international application PCT/EP00/08487 which claimed a priority date of 04 September 1999 and which designated the United States. On 15 March 2001, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

On 23 March 2001, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 04 March 2002.

On 01 March 2002, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment for the basic national fee.

On 29 July 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 indicating that an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than 30 months from the priority date was required.

On 08 August 2002, applicants filed the submission considered herein as a petition under 37 CFR 1.181. The petition asserts that on 07 March 2002 applicants filed an executed declaration and an authorization to charge Deposit Account No. 07-1392 the \$130 surcharge for filing this declaration later than thirty months after the priority date, that is, the materials required by the Notification Of Missing Requirements. Attached to the petition are copies of the materials purportedly filed on 07 March 2002 as well as a copy of a return postcard which itemizes these materials and bears a USPTO receipt stamp dated 07 March 2002.

### DISCUSSION

Based on applicants' statements in the present petition, the attached return postcard, and internal USPTO records which indicate the receipt of the \$130 surcharge payment on 07 March 2002, it is concluded that the materials attached to the present petition, including the executed declaration and surcharge payment, were originally filed in the USPTO on 07 March 2002. Accordingly, the Notification Of Missing Requirements mailed 29 July 2002, based as it was on applicants' purported failure to file these materials, is appropriately vacated.

A review of the declaration filed 07 March 2002 reveals that it is in compliance with 37 CFR 1.497.

### CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**. The materials attached to the present petition, including the executed declaration and the surcharge payment, are considered to have been filed on 07 March 2002.

The Notification Of Missing Requirements mailed 29 July 2002 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The 35 U.S.C. 371(c) date is 07 March 2002.



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